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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,174	12/05/2001	William Gobush	20002.0162	3740

23517 7590 08/26/2005

SWIDLER BERLIN LLP
3000 K STREET, NW
BOX IP
WASHINGTON, DC 20007

EXAMINER

NGUYEN, KIM T

ART UNIT PAPER NUMBER

3713

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/002,174

Applicant(s)

GOBUSH ET AL.

Examiner

Kim Nguyen

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 15-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 15-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/10/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Examiner acknowledges receipt of the amendment on 6/6/05. According to the amendment, claim 14 has been canceled, and claims 1-13 and 15-37 are pending in the application.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 18-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
 - a) In claim 18, lines 9-10, the claimed limitation “wherein at least one of the first and second camera acquire images of light emitted by the fluorescent markers” seems to be incorrect because according to the limitations in lines 5-6, if the first and second cameras are positioned to view the same object having a marker which is different from the fluorescent marker, the first and second cameras could not acquire any image because there is no light emitted by the fluorescent marker, therefore, measuring or determining the kinematics of the objects in lines 1-2 or line 12 can not be performed.
 - b) In claim 18, lines 11-12, the claimed limitation “determining the

kinematics of at least one of the at least two objects” contradicts with the preamble in claim 18, lines 1-2, which is measuring kinematics of at least two objects.

c) Claims 19-27 are rejected as being dependent on the rejected base claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-13 and 15-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ortyn et al (US 2002/0093641) in view of Gobush et al (US patent No. 5,575,719).

As per claim 1, Ortyn discloses a monitor system for measuring kinematics of an object (paragraphs 0097, 0024) comprising a light source 12 (Fig. 1) capable of directing light at an object 18 (Fig. 2) (paragraphs 0024, 0035 and 0015), and a light receiver 14 (Fig. 1) comprising a filter (paragraphs 0099 and 0101)). Ortyn does not explicitly disclose that the monitor system is portable and the object is a golf ball. However, resizing the monitor system to a size suitable for handheld usage would have been both well known and obvious

to a person of ordinary skill in the art at the time the invention was made, and Gobush discloses a golf ball object (col. 3, lines 15-18). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to size the monitor system of Ortyn to a size suitable for handheld and to replace the object of Orton with a golf ball object, since resizing a device to make the device portable and using a monitor system with the same method to measure kinematics of an object such as a golf ball require only routine skill in the art.

As per claim 2, selecting a specific emission wavelength to observe would have been obvious design choice.

As per claim 3-4, using a low pass filter or a band pass filter for filtering a range of frequency light would have been well known to a person of ordinary skill in the art at the time the invention was made. Further, filtering a specific range of frequency and selecting a light source with specific emission spectrum with a specific range of transmission wavelength as needed by a particular application would have been obvious design choice.

As per claim 5-6, since Ortyn discloses using a light source and filters to deliver desired wavelengths (paragraph 0099), Ortyn obviously encompasses teaching using a light source with specific wavelength as needed such as a wavelength of 400nm to 800nm would have been obvious design choice.

As per claim 7-8 and 10, Ortyrn discloses a band pass filter (paragraph 0033). Further, selecting a specific center wavelength and a specific bandwidth for filtering a specific range of wavelength of light would have been both well-known and obvious design choice.

As per claim 9, the electronically switchable filter is a well-known filter type.

As per claim 11-12, Ortyrn discloses using light emitting diodes strobe light (paragraphs 0035 and 0099).

As per claim 13, Gobush discloses including another object having a marker (col. 5, lines 10-13). Gobush does not disclose using marker of different reflective wavelength, size, etc. for the other object. However, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to select a specific marker with specific reflective wavelength, size, etc. in order to facilitate tracking a specific object and excluding the object that the user is not interested in tracking the object.

As per claim 15, using an orange-fluorescent marker would have been well known to a person of ordinary skill in the art at the time the invention was made.

As per claim 16-17, Ortyrn discloses including a central processing unit (paragraphs 0122-0123) in the system. Further, designing a system with a specific weight to fit a specific application requires only routine skill in the art.

Further, using a battery as a power source would have been well known to a person of ordinary skill in the art at the time the invention was made.

As per claim 18, refer to discussion in claims 1 and 13 above. Further, Ortyn discloses measuring kinematics of at least two objects having markers (Fig. 11; paragraphs 0023, 0015, 0126 and 0125) comprising a first camera and a second camera (Fig. 11; paragraphs 0036 and 0040).

As per claim 19-37, refer to discussion in claims 1, 3-4, 6, 8, 11 and 13 above. Further, as to claim 36, Ortyn discloses comprising a second filter (paragraph 0101) in the light receiver for locking the excitation spectrum wavelength.

Response to Arguments

5. Applicant's arguments on 6/6/05 have been considered but are moot in view of the new ground(s) of rejection.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply

is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action. Any response to this final action should be mailed to:

Box AF

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Or faxed to:

(703) 872-9306, (for formal communications; please mark
"EXPEDITED PROCEDURE")

Hand-delivered responses should be brought to Crystal Plaza II,
Arlington, VA Second Floor (Receptionist).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Nguyen whose telephone number is (571) 272-4441. The examiner can normally be reached on Monday-Thursday from 8:30AM to 5:00PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai, can be reached on (571) 272-7147. The central official fax number is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

kn
Date: August 12, 2005

A handwritten signature in black ink, appearing to read 'Kim Nguyen', with a stylized flourish at the end.

Kim Nguyen
Primary Examiner
Art Unit 3713